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80-1736

No.

SUPREME COURT OF THE UNITED STATES

April Term 1981

STANLEY A. LA FARGUE ---------- **Petitioner**

versus

THE SUPREME COURT OF LOUISIANA ---------- **Respondent**

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEAL FOR THE FIFTH CIRCUIT

IN PROPER PERSON
STANLEY A. LA FARGUE
3127 Government Street
Post Office Box 66401
Baton Rouge, Louisiana 70896

April 15, 1981

QUESTION PRESENTED

Did the District Court abuse its discretion by ruling that it lacked jurisdiction and that plaintiff had no interest in, and had presented no issue of fact, on the subject matter?

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TABLE OF AUTHORITIES

Article XIV, Constitution
U.S.C. 28:1343
LSA-R.S. 13:4550
Cases:
Hatfield v. *Bailleaux,* C.A. Or. 1961, 290 F.2d 632
Sewell v. *Pegelow,* C.A. Va. 1961, 291 F.2d 196

SUPREME COURT OF THE UNITED STATES

April Term, 1981

STANLEY A. LA FARGUE---------- *Petitioner*

v.

THE SUPREME COURT OF LOUISIANA

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH DISTRICT

Petitioner, STANLEY A. LA FARGUE, respectfully prays that a Writ of Certiorari issue to review the Order of the United States Court of Appeals for the Fifth Circuit entered January 16, 1981, affirming the District Court's granting of motion of defendant to dismiss plaintiff's suit brought under Article XIV of the United States Constitution and 28 U.S.C. 1343.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Fifth Circuit was entered January 16, 1981 (see Appendix, p. . The opinion of the United States District Court, Eastern District of Louisiana, was entered on April 16, 1980 (see Appendix, p.).

JURISDICTION

The Order of the United States Court of Appeals, Fifth Circuit, was entered on January 16, 1981. This Court's jurisdiction is invoked pursuant to 28 U.S.C. 1343, and Article XIV of the United States Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article XIV of the United States Constitution states:

> All persons born or naturalized in the Untied States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the Untied States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S.C. 28:1343, states:

> The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
>
> . . .
>
> (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by an Act of Congress providing for equal rights of citizens or all persons within the jurisdiction of the United States;

STATEMENT OF THE CASE

The United States Court of Appeals, Fifth Circuit, entered an order on January 16, 1981, affirming the judgment of the United States District Court, Eastern District of Louisiana, dismissing plaintiff's suit against defendant, The Louisiana Supreme Court.

The United States District Court, Eastern District of Louisiana, on April 16, 1980, had granted defendant's motion to dismiss, stating that plaintiff had no interest in the subject matter and had stated no claim for damages, and petitioner, Stanley A. LaFargue, appealed.

Petitioner is petitioning the Supreme Court of the United States to grant a Writ of Certiorari for the purpose of reviewing the Order of the United States Court of Appeals, Fifth Circuit.

REASON FOR GRANTING THE WRIT

1. It is an abuse of the District Court to rule that petitioner has no interest in the actions of the Louisiana Supreme Court, and has sustained no damages as a result of their actions, and that it has no jurisdiction of the subject matter under Article XIV of the United States Constitution and U.S.C. 28:1343.

This case should have been a simple one, but instead, the basic complaint has been obfuscated by the claims of defendant, to which the District Court responded.

The defendant stated, through its Chief Justices Summers and Dixon, and the Associate Justices as well, that it was neglecting its constitutional duties toward a large segment of the public (citizens), who applied for writs of certiorari, because of overwork and caseload. Their verbatim remarks are:

"For the highest court of this state to be required by force of its case load to refuse to grant writs in 85% of the applications in civil cases presented to it leaves important areas of our civil jurisprudence without adequate treatment, our courts and bar without the direction this court was originally designed to afford. More importantly, applicants in some of those cases may be left without a full measure of justice.

"Last year . . . 60% of the cases heard by the Supreme Court were criminal matters. The overload of cases forced the court to refuse consideration of 85 percent of the civil matters presented for appeal . . . The overload also has resulted in law clerks screening many cases in order to save time . . ."

No denial or retraction of these statements was ever made. In fact, the defendant conceded everything plaintiff alleged in his complaint. Yet, the defendant further alleged that plaintiff's action was insubstantial and frivolous.

It is plaintiff's contention that *every* application for writ of certiorari should be fully considered, on the basis of its content and merit, and *then* granted or denied, as each situation warrants; rather than being denied because the court is overworked or has a heavy caseload. Such is the obligation of the Supreme Court of Louisiana to the citizens of the State of Louisiana.

Much was made over the semantics involved and that while the plaintiff, in a criminal matter, would have an absolute right to appeal, which the court must consider, in civil applications for writs, it was a "matter of grace" as to whether or not such application is granted or denied.

It matters not to the layman what legislators, who enact laws; lawyers, who practice law by such guidelines; or judges in their varying degrees of stature and influence, call it. The facts of the matter are, an aggrieved party "may apply to the Supreme Court for a writ of certiorari or review, to determine or review questions of law or jurisprudence, or any question of the jurisdiction of the court of appeal." LSA-R.S. 13:4550.

For the defendant then to shirk its duty, and admit it time and time again, must surely abridge the rights of all citizens who seek relief under the laws of the State of Louisiana and the United States of America.

Plaintiff sought a review of such negligent procedures, to the end that all citizens who had, as he had done, applied to the Supreme Court, during the period of time covered by their negligence, would be granted justice.

Plaintiff had made application to the Supreme Court of Louisiana for writs of certiorari on a civil matter in 1979, which application was denied.

The defendant, in the first six months of 1979, had received 435 such civil applications. By their own admission, since they were denying 85% of these without properly considering them, 369 applications were refused. Plaintiff did not know into which category his application fell: the 85% not properly considered and denied, or the other 15%. Therefore, his own personal damages were not made an issue in his complaint; rather, the rights of *all* such applicants who had been so shamefully treated by the highest court in the State's Judiciary, were at stake.

Plaintiff contended that he stated a claim arising under U.S.C. 28:1343, and original jurisdiction to remedy violations of equal rights is granted to the United States District Courts.

Any action that abridges or denies any citizen the right to be heard by the august body of the Louisiana Supreme Court, is a deprivation of rights granted. By their own admission, criminals are given preference; yet they pay no fees to anyone, attorneys or for filing; they are a burden on society by the nature of their status, and yet their matters are fully considered; while in civil matters, such applications are deprived of a "full measure of justice"; this being the language of the Chief Justice of the very body set up to guarantee "justice."

Plaintiff, reiterating the statements of the Court itself, charged that they did not review applications made relative to state lower court proceedings, and find such manifestly correct before refusing to grant writs of certiorari. Plaintiff asked that such a procedure be reviewed. And any interpretation of due process would require that each and every application made to the Supreme Court be fully considered, in a fair and impartial manner, and then appropriate action taken, which they admitted they did not do.

The case of *Hatfield* v. *Bailleaux,* C.A. Or. 1961, 290 F.2d 632, stated:

"Under this section and section 1983 of title 42, one deprived under color of state law of any right, privilege or immunity secured by the Constitution and laws of the United States may obtain redress in the federal courts."

And, in *Sewell v. Pegelow,* C.A. Va. 1961, 291 F.2d 196:

"A district court has power to grant injunctive relief where there has been a deprivation of civil rights."

Defendant characterized plaintiff's complaint as "wholly insubstantial, frivolous and patently without merit." Under no rationale can the admissions of the Chief Justices of the Supreme Court of the State of Louisiana be considered as such, and plaintiff's claim denied. Due process requires that each state provide those rights and remedies constituting same under their own laws.

The process of having law clerks screen matters is not fair to the citizen, by any stretch of the imagination. If the Chief Justice himself feels that many applicants are left without a full measure of justice, how could the District Court have found otherwise?

Plaintiff contends that it is his fundamental constitutional right, and the constitutional right of every citizen/applicant, to have applications made to the Louisiana Supreme Court considered fully and then denied or granted on the basis of said application, rather than the workload of the men handling such matters.

It is conceivable that this does, in fact, occur. Perhaps in the 15% of the cases the Justices referred to. But it is totally unacceptable that *any* inequities occur for failure of the Court to properly review the merits of each application after its submission.

CONCLUSION

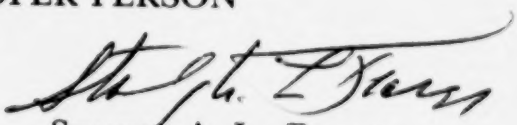
Any deprivation of rights of a citizen, by the very in-

stitution created by law to protect such rights, demands redress of such grievances by the ultimate authority, this Honorable Court, to the end that such abuses of power and discretion be halted. Petitioner maintains that he has clearly demonstrated a deprivation of not only his, but others' rights, in this matter.

Defendant's righteous indignation that they should not be subjected to such a complaint and their engaging in personalities rather than issues, leaves much to be desired of such a learned and august body.

Respectfully submitted,

IN PROPER PERSON



STANLEY A. LA FARGUE
3127 Government Street
Post Office Box 66401
Baton Rouge, Louisiana 70896

April 15, 1981

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

I do hereby certify that three copies of the above and foregoing brief have been mailed, postage prepaid, to Patricia Nalley Bowers, Staff Attorney, Louisiana Department of Justice, 234 Loyola Aveneu, 7th Floor, New Orleans, Louisiana 70112, this 15th day of April, 1981.

STANLEY A. LA FARGUE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

STANLEY A. LA FARGUE	Civil Action
v.	No. 80-747
SUPREME COURT OF LOUISIANA	Section "J"

JUDGMENT

The Court having granted the motion of defendant to dismiss,

IT IS ORDERED, ADJUDGED and DECREED that there be judgment in favor of defendant, Supreme Court of Louisiana, and against plaintiff, Stanley A. LaFargue, dismissing said plaintiff's suit, with costs.

Dated at New Orleans, Louisiana, this 16 day of April, 1980.

(s) Nelson B. Jones
NELSON B. JONES, CLERK

APPROVED AS TO FORM:
(s) Patrict E. Carr
UNITED STATES DISTRICT JUDGE

APPENDIX

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT UNIT A

STANLEY A. LA FARGUE — No. 80—3374
Plaintiff-Appellant — Summary Calendar

v.

THE SUPREME COURT OF LOUISIANA
Defendant-Appellee

Plaintiff brought suit against the Louisiana Supreme Court alleging that it was derelict in its duty with respect to civil litigation because it was so burdened with criminal appeals that it was required to deny 85% of all civil writs. The United States District Court for the Eastern District of Louisiana, Patrick E. Carr, J., dismissed the complaint, and plaintiff appealed. The Court of Appeals, Alvin B. Rubin, Circuit Judge, held that complaint failed to present a case or controversy.

Affirmed.

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Complaint alleging that Louisiana Supreme Court was derelict in its duty with respect to civil litigation because it was so burdened with criminal appeals that it was required to deny 85% of all civil writs did not present a case or controversy cognizable in federal court where complaint failed to charge a denial of plaintiff's federal constitutional rights. LSA—R.S. 13:4400.

Appeal from the United States District Court for the Eastern District of Louisiana.

Before GEE, RUBIN and RANDALL, Circuit Judges.

ALVIN B. RUBIN, Circuit Judge.

The Louisiana Courts of Appeal are not only Louisiana's intermediate appellate courts, but no appeal

lies from their determination. L.S.A. R.S. 13:4450. Their judgments are subject to review by the Louisiana Supreme Court only by application of writs.

Stanley LaFargue contends that the Louisiana Supreme Court is derelict in its duty with respect to civil litigation because, he alleges, it is so burdened with criminal appeals that it must deny 85% of all civil writs. Neither the complaint nor the brief demonstrates why, even if the facts asserted to be true, LaFargue's federal constitutional rights have been violated. The complaint charges not the slightest encroachment on LaFargue's rights in any specific matter but only that he and "all who appeal (sic) their matters to the Supreme Court" are denied "their rights of due process and equal protection."

The federal constitution permits us to consider only cases and controversies. This prohibits federal courts from deciding issues raised by parties who do not have a personal interest in the litigation. *Warth* v. *Seldin,* 422 U.S. 490, S.Ct. 2197, 45 L.Ed.2d 343 (1975). LaFargue does not even allege that he has been denied either due process or equal protection in any matter. In his brief, although not in his complaint, he says he had "been involved in a lawsuit and had, in early 1979, applied to the Louisiana Supreme Court for writs of certiorari or review, which application was denied." Even this does not charge denial of his own constitutional rights.

No litigant in the federal courts may appear as a self designated ombudsman for the rights of others. *Simon* v. *Eastern Kentucky Welfare Rights Organization,* 426 U.S. 26, 96 S.Ct. 1917, 48 L.Ed.2d 450 (1976). We, therefore, do not even reach the question whether the due process

clause imposes any duty on a state Supreme Court that is violated by its decision to grant or deny applications for writs, *see, Ortwein* v. *Schwab,* 410 U.S. 656, 660, 93 S.Ct. 1172, 35 L.Ed.2d 572 (1973), or the degree to which, if at all, equal protection requires a court to give proportionate amounts of its time to various types of litigation. *See, San Antonio Independent School District* v. *Rodriguez,* 411 U.S. 1, 51, 93 S.Ct. 1278, 36 L.Ed.2d 16 (1973).

Considering the face of his complaint and the arguments raised on appeal, we consider the appeal as frivolous. Because, however, Mr. LaFargue is appearing pro se, without the benefit of counsel, and because our liberal policy toward pro se litigants recognizes that they lack the judgment of the professional, we have decided not to tax double costs or assess attorney's fees in this instance.

The judgment of the District Court is AFFIRMED.